

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chair, and Frank Serico, Member

**From:** Gerald Yarbrough, Executive Secretary  
Board of Review

**Subject:** Minutes of the March 8, 2006  
Board of Review Meeting

**Date:** March 13, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO  
CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, March 8, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, March 15, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair  
Mr. Sieber, Vice Chair  
Mr. Serico, Member  
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the March 1, 2006 meeting were approved.

3. Old Business

(a) 93, 181

This matter was previously tabled due to technical difficulties because the Board was unable to obtain the digital recording of the hearing. As the digital recording remained unavailable after additional attempts to locate it, the Board voted to remand the case to the Appeal Tribunal. Ms. Calderone will prepare the order.

4. New Business

(a) 97, 631

Ms. Abrunzo presented this case that involved a claimant who was demoted from the position of general manager to an assistant manager with

a decrease in pay and a change in job duties. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43: 21-5(a) or N.J.S.A. 43:21-5(c). After discussion, the majority of the Board noted that the claimant was not subject to disqualification for leaving work but that the claimant did not have good cause to refuse the offer of work. As a result, the majority of the Board voted to modify the Appeal Tribunal, holding the claimant disqualified for benefits under N.J. S. A. 43:21-5(c). Ms. Abunzo will prepare the decision. Mr. Serico did not agree.

**(b) 97,546, 97,547 and 96,257**

Ms. Gagliardo and Mr. Maddow described these cases that involved claimants whose office was closing. The claimants had the option of transferring to other facilities or accepting an "Enhanced Income Security Plan." The transfers would have required the claimants to travel a greater distance to work, so the claimants accepted the plan and left work. The Appeal Tribunal had held the claimants disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that additional testimony was needed as to the terms of the union contract regarding transfers. As a result, the Board voted to remand the cases to the Appeal Tribunal for additional testimony. Ms. Gagliardo and Mr. Maddow will prepare the remands.

**(c) 91,656**

As presented by Mr. Gitter, this case involved a claimant who was discharged when he was accused of taking a shed from the employer. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(b) for gross misconduct connected with the work. The Board noted that the claimant did not admit taking the shed, and there was no firsthand testimony that the claimant picked up or delivered the shed. As a result, the Board voted to remand the case for testimony from the employer's firsthand witness. Mr. Gitter will prepare the remand.

**(d) 89, 297**

As described by Ms. Barnwell, this case involved a claimant who left work due to the conditions of work, which included the amount of hours he worked and the comments made by his supervisors. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the record was lacking testimony regarding a description of the claimant's job duties and how the conditions of work were abnormal. As a result, the Board voted to remand the case for additional testimony. Ms. Barnwell will prepare the remand.

**(e) 95, 602**

Ms. Barnwell presented this case that involved a claimant who was discharged for insubordination. The Appeal Tribunal had held the claimant

disqualified for benefits under N.J.S.A. 43:21-5(b). After discussion, the Board voted to affirm the Appeal Tribunal.

**4. Public Portion**

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

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Gerald Yarbrough  
Executive Secretary